

- The in-mine testing of the pre-production prototype PDMs at mines in Pennsylvania, West Virginia, Alabama, and Utah is completed;

- NIOSH and MSHA commit \$150,000 each for further testing contingent upon completion and positive assessment of the in-mine testing; and

- Information is obtained to assist in controlling and monitoring respirable coal mine dust and preventing Black Lung disease.

For all the reasons stated herein, the comment period on the proposed rule is hereby extended until further notice is published in the **Federal Register**.

A separate notice reopening the rulemaking record for the proposed rule "Determination of Concentration of Respirable Coal Mine Dust," (68 FR 10940, 68 FR 32005) will be published in the **Federal Register** shortly.

Dated: June 30, 2003.

John R. Caylor,

Deputy Assistant Secretary for Mine Safety and Health.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 19 and 27

[FRL-7522-4]

Civil Monetary Penalty Inflation Adjustment Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency is proposing to amend the final Civil Monetary Penalty Inflation Adjustment Rule, as mandated by the Debt Collection Improvement Act of 1996, to adjust EPA's civil monetary penalties ("CMPs") for inflation on a periodic basis. The Agency is required to review its penalties at least once every four years and to adjust them as necessary for inflation according to a formula specified in the statute. A complete version of Table 1 from the proposed regulatory text, which lists all of the EPA's civil monetary penalty authorities, appears near the end of this document.

DATES: Written comments should be submitted on or before August 4, 2003.

ADDRESSES: Mail written comments to the Docket Office, Enforcement & Compliance Docket and Information Center (2201AT), Docket Number EC-2001-008, U.S. Environmental

Protection Agency, EPA West, 1200 Pennsylvania Avenue, NW., Room B133, Washington, DC 20460 (in triplicate, if possible). Please use a font size no smaller than 12. Written comments may be delivered in person to: U.S. Environmental Protection Agency, EPA West, 1301 Constitution Avenue, NW., Room B133, Washington, DC 20460. Comments may also be submitted electronically to docket.oeca@epa.gov or faxed to (202) 566-1511. Attach electronic comments as an ASCII (text) file, and avoid the use of special characters and any form of encryption. Be sure to include the docket number, EC-2001-008 on your document. Public comments, if any, may be reviewed at the Enforcement and Compliance Docket Information Center, U.S. Environmental Protection Agency, EPA West, 1301 Constitution Avenue, NW., Room B133, Washington, DC 20460. Persons interested in reviewing this docket may do so by calling (202) 566-1512.

FOR FURTHER INFORMATION CONTACT:

David Abdalla, Office of Regulatory Enforcement, Multimedia Enforcement Division, Mail Code 2248A, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, (202) 564-2413.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. 2461 note, as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. 3701 note, ("DCIA"), each federal agency is required to issue regulations adjusting for inflation the maximum civil monetary penalties that can be imposed pursuant to such agency's statutes. The purpose of these adjustments is to maintain the deterrent effect of CMPs and to further the policy goals of the laws. The DCIA requires adjustments to be made at least once every four years following the initial adjustment. The EPA's initial adjustment to each CMP was published in the **Federal Register** on December 31, 1996, at 61 FR 69360 and became effective on January 30, 1997.

The proposed rule adjusts the amount for each type of CMP that EPA has jurisdiction to impose in accordance with these statutory requirements. It does so by revising the table contained in 40 CFR 19.4. The table identifies the statutes that provide EPA with CMP authority and sets out the inflation-adjusted maximum penalty that EPA may impose pursuant to each statutory provision. The proposed rule also revises the effective date provisions of

40 CFR 19.2 to make the penalty amounts set forth in 40 CFR 19.4 apply to all applicable violations that occur after the effective date of the final rule.

The DCIA requires that the adjustment reflect the percentage increase in the Consumer Price Index between June of the calendar year preceding the adjustment and June of the calendar year in which the amount was last set or adjusted. The DCIA defines the Consumer Price Index as the Consumer Price Index for all urban consumers published by the Department of Labor ("CPI-U"). As the initial adjustment was made and published on December 31, 1996, the inflation adjustment for the CMPs set forth in the proposed rule was calculated by comparing the CPI-U for June 1996 (156.7) with the CPI-U for June 2002 (179.9), resulting in an inflation adjustment of 14.8 percent. In addition, the DCIA's rounding rules require that an increase be rounded to the nearest multiple of: \$10 in the case of penalties less than or equal to \$100; \$100 in the case of penalties greater than \$100 but less than or equal to \$1,000; \$1,000 in the case of penalties greater than \$1,000 but less than or equal to \$10,000; \$5,000 in the case of penalties greater than \$10,000 but less than or equal to \$100,000; \$10,000 in the case of penalties greater than \$100,000 but less than or equal to \$200,000; and \$25,000 in the case of penalties greater than \$200,000.

The amount of each CMP was multiplied by 14.8 percent (the inflation adjustment) and the resulting increase amount was rounded up or down according to the rounding requirements of the statute. The table below shows the inflation-adjusted CMPs and includes only the CMPs as of the effective date of the final rule. EPA intends to readjust these amounts in the year 2007 and every four years thereafter, assuming there are no further changes to the mandate imposed by the DCIA.

On June 18, 2002, the EPA published a direct final rule and a parallel proposed rule in the **Federal Register** (67 FR 41343). The direct final rule would have amended the Civil Monetary Penalty Inflation Adjustment Rule, as mandated by the DCIA, to adjust EPA's civil monetary penalties for inflation. EPA stated in the direct final rule that if we received adverse comment by July 18, 2002, EPA would publish a timely notice of withdrawal on or before the August 19, 2002 effective date, and then address that comment in a subsequent final action based on the parallel proposal published at (67 FR 41363). EPA